

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CECILIA TURNER)	
)	
Plaintiff,)	
)	Case No. 4:16-cv-597
vs.)	
)	
STATE FARM MUTUAL AUTOMOBILE)	JURY DEMAND
INSURANCE COMPANY, misnamed)	
STATE FARM FIRE AND CASUALTY)	
COMPANY d/b/a STATE FARM)	
INSURANCE COMPANIES)	
)	
Defendant.)	

MOTION TO STRIKE

COMES NOW Defendant State Farm Mutual Automobile Insurance Company, misnamed “State Farm Fire and Casualty Company d/b/a State Farm Insurance Companies” in Plaintiff’s Complaint, and states the following as its Motion to Strike:

1. The policy issued to Plaintiff which is described in Plaintiff’s Complaint was issued by State Farm Mutual Automobile Insurance Company and not State Farm Fire and Casualty Company d/b/a State Farm Insurance Companies as alleged in Plaintiff’s Complaint.

2. Defendant State Farm Mutual Automobile Insurance Company requests that the reference to “State Farm Fire and Casualty Company, d/b/a State Farm Insurance Companies” in the caption of Plaintiff’s Complaint be stricken and that “State Farm Mutual Automobile Insurance Company” be substituted as the proper Defendant.

3. In paragraph 4, Plaintiff’s Complaint alleges “compensatory and exemplary damages in excess of \$500,000.”

4. In Plaintiff’s wherefore clause, Plaintiff alleges that Plaintiff is seeking an award of

“attorney fees”.

5. According to Plaintiff's Complaint, Plaintiff's cause of action in this cause is for “breach of contract”.

6. Exemplary damages and attorneys' fees, in general, are not recoverable in breach of contract actions.

7. Plaintiff's Complaint contains no allegations that would support an award of exemplary damages or attorneys' fees.

8. Any reference to exemplary damages and attorneys' fees in Plaintiff's Complaint should be stricken and held for naught.

WHEREFORE, Defendant prays that the Court enter an Order striking Plaintiff's Complaint to the extent it references exemplary damages and attorneys' fees, and for any other Orders the Court deems just and proper.

/s/ Scott C. Harper

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed with the Court's electronic filing system, with notice of case activity to be generated and sent electronically by the Clerk of said Court and/or via e-mail on the 28th day of April, 2016, to the following:

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/s/ Scott C. Harper